IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

-

WRIT PETITION NO : 12895 of 2005

Between:

1 Chegondi Narasimha Rao S/o. Venkanna,
R/o. Doddipatla, Elamanchili (M), West Godavari District.
2 Chegondi Bhogeshwara Rao S/o. Venkanna,
R/o. Doddipatla, Elamanchili (M), West Godavari District.
3 Chegondi Venkateswara Rao S/o. Venkanna,
R/o. Doddipatla, Elamanchili (M), West Godavari District.
4 Chegondi Adinarayana S/o. Venkanna,
R/o. Doddipatla, Elamanchili (M), West Godavari District.
5 Chegondi Veeravenkata Satayanarayana S/o. Venkanna,
R/o. Doddipatla, Elamanchili (M), West Godavari District.

..... PETITIONERS

AND

1. The Regional Joint Commissioner, Multizone-I, Endowments Department, Kakinada, East Godavari District.

2. The Assistant Commissioner of Endowments, Eluru, West Godavari District.

3. Sri Mooleswara Swamy and Sri Kanaka Durga Ammavari Temple, Doddipatla, Elamanchili Mandal, West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate writ, Order or direction declaring the order dt. 12-5-2005 in Appeal No. 25/2005 passed by 1st Respondent by confirming the order of the 2nd respondent in R.C.No. A2/3946/2003 Adm. dt. 25-12-2004 as illegal, arbitrary and contrary to law and to declare the petitioner as land

less poor persons and entitled to continue as tenants in respect of the said land.

Counsel for the Petitioners: MR.K.CHIDAMBARAM

Counsel for the Respondent Nos.1 and 2: GP FOR ENDOWMENTS

Standing Counsel for Respondent No.3: SMT.N.INDRANI

The Court at the state of admission made the following:

ORAL ORDER:

Heard the learned counsel for the petitioners, learned Government Pleader for Endowments and Smt.N.Indrani, learned Standing Counsel for 3rd respondent.

2. The order in Appeal No.25 of 2005 passed by the Regional Joint Commissioner, Endowments Department, Kakinada, 1st respondent in the Writ Petition, is impugned herein. The 2nd respondent – Assistant Commissioner, in Appeal No.25 of 2005 relied on a Division Bench Judgment of this Court in Writ Petition No.1302 of 2003 in contending that it was the original tenancy which had to be looked into and not the subsequent division or partition among the family members of the deceased-tenant. Taking the entire holding of the petitioners' father into consideration and inasmuch as the land under lease, with the petitioners' father, exceeded the limits prescribed for a landless poor person, the appeal preferred by the petitioners herein was dismissed by the 1st respondent.

3. Sri K.Chidambaram, learned counsel for the petitioners', submits that the petitioners' father was in occupation of the property from 1964 to 1995. It is his specific case that the petitioners herein were granted individual leases on 8.3.1996 for a period of three years i.e., for the years 1995-96 to 1997-98. Learned counsel submits that vide proceedings dated 16.4.2003 the petitioners were asked to vacate the land under their possession.

4. Smt.N.Indrani, learned Standing Counsel for 3rd respondent submits that even if the petitioners are declared as landless poor persons, inasmuch as they are not in continuous possession for a period of six years prior to commencement of Act 30 of 1987, they are not entitled to the benefits under Section 82(2) of the Endowments Act.

5. Sri K.Chidambaram, learned counsel for the petitioners submits that even if the petitioners are held not to be entitled for the benefits under Section 82(2) of the Endowments Act and even if they are held to have remained in possession subsequent to the expiry of their lease, they are entitled for protection under Section 83 of the Endowments Act and the procedure prescribed therein is required to be followed by the authorities concerned. Whether the petitioners are entitled for the benefits of a landless poor person under Section 82(2) and whether they are entitled for protection under Section 83 would all be matters which would arise for consideration only after the 2nd respondent, taking into consideration the fact that the petitioners were given individual leases on 8.3.1996, determines whether or not they are landless poor persons.

6. Inasmuch as petitioners herein were given individual leases vide proceedings dated 8.3.1996, and they are in possession of the land, under their cultivation, in their own right and not as family members or children of the deceased original tenant, the Division Bench Judgment of this Court in Writ Petition No.1302 of 2003, dated 13.2.2003, may not apply. The order of the 1st respondent passed in Appeal No.25 of 2005 dated 12.5.2005 confirming the order of the 2nd respondent, dated 25.12.2004, is, therefore, set aside and the matter is remanded to the 2nd respondent for fresh determination as to whether or not the petitioners are landless poor persons, taking into consideration the fact that they were given individual leases.

7. This order shall not preclude the respondents herein from going ahead with the auction, if they so desire.

8. The Writ Petition is accordingly disposed of. No costs.

15.07.2005

SSR

Issue copy in three days.

(BO)

To

1. The Regional Joint Commissioner, Multizone-I, Endowments Department, Kakinada, East Godavari District.

2. The Assistant Commissioner of Endowments, Eluru, West Godavari District.

3. Sri Mooleswara Swamy and Sri Kanaka Durga Ammavari Temple, Doddipatla,

4. Elamanchili Mandal, West Godavari District.

4. 2 CCs to G.P. for Endowments, High Court of A.P. Hyderabad. (OUT)

5. 2 CD copies

*Form-NIC-OGS/WP{**VSMI**}*